

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

Calpine Corporation, et al.,

Debtors.

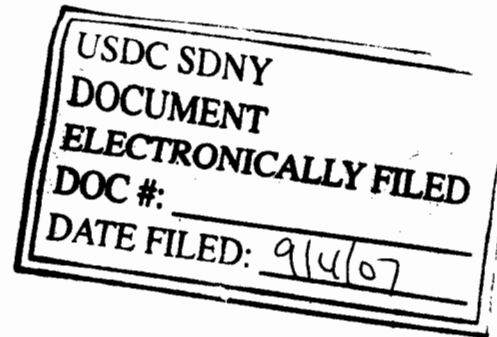
California Electricity Oversight Board, the
People of the State of California, ex rel. Edmund
G. Brown, Jr., Attorney General of the State of
California, and the California Department of
Water Resources

Plaintiff,

v.

Calpine Corporation, et al.,

Defendants.



Chapter 11

Case No. 05-60200 (BRL)
Jointly Administered

District Court Case Nos.:
07-cv-6917 (~~KMK~~) (UA)
06-cv-624 (KMK)

**STIPULATED ORDER RESOLVING ALL DISPUTES
BY AND AMONG THE CALIFORNIA STATE PARTIES AND THE DEBTORS**

The above-captioned debtors and debtors in possession (collectively, the "Debtors"), the Official Committee of Unsecured Creditors of Calpine Corporation (the "Committee") and the (a) California Electricity Oversight Board, (b) the People of the State of California, *ex rel.* Edmund G. Brown, Jr., Attorney General of the State of California, and (c) the California Department of Water Resources (collectively, the "California State Parties") and together with the Debtors and the Committee, the "Parties") by and through their respective attorneys, enter into this stipulated order (the "Order") that resolves all disputes between the Parties.

RECITALS

WHEREAS, Calpine Energy Services, L.P. ("CES") and the California Department of Water Resources, with respect to the Department of Water Resources Electric Power Fund, separate and apart from its powers and responsibilities with respect to the State Water Resources Development System ("CDWR"), entered into a certain master power purchase agreement (the "Calpine 2 Contract") that was guaranteed by Calpine Corporation (the "Guaranty");

WHEREAS, on January 27, 2006, the District Court for the Southern District of New York (the "District Court") dismissed the Debtors' motions to reject the Calpine 2 Contract in case numbers 05 Civ. 10842 (RCC), 05 Civ. 10861 (RCC), and 05 Civ. 10875 (RCC) and vacated the temporary restraining order in case number 06 Civ. 624 (RCC), and the Debtors and the Committee appealed such decision to the Second Circuit Court of Appeals (the "Appeal");

WHEREAS, on June 20, 2007, the Debtors filed their proposed Joint Plan of Reorganization pursuant to Chapter 11 of the United States Bankruptcy Code (the "Plan") and the accompanying disclosure statement (the "Disclosure Statement") with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court");

WHEREAS, on August 1, 2007, the California Parties filed (i) an objection in the Bankruptcy Court to Debtors' Disclosure Statement based on the Federal Power Act ("FPA")¹ and other federal law (the "FPA Based Objection"); (ii) a motion in this Court to withdraw the reference to the Bankruptcy Court regarding the Debtors' Disclosure Statement and Plan to the extent that such proceedings relate to whether Debtors' Disclosure Statement must be denied for the reasons set forth in the FPA Based Objection or any other objection relating to the FPA or the District Court Order (the "Motion to Withdraw"); (iii) an objection in the Bankruptcy Court to

¹ The FPA is codified at 16 U.S.C. §§ 796 *et seq.*

the Disclosure Statement based on inadequate disclosure (the “Disclosure Statement Objection”); (iv) a motion in this Court to stay all Plan and Disclosure Statement proceedings in the Debtors’ Reorganization Cases to the extent that such proceedings relate to those portions of the Debtors’ Disclosure Statement and Plan objected to under the FPA and other federal law, including by the California State Parties in their FPA Based Objection (the “Motion to Stay”); and (v) a motion in this Court to enforce the District Court Order (the “Motion to Enforce,” together with the Motion to Withdraw, the FPA Based Objection, the Disclosure Statement Objection, and the Motion to Stay, the “Objections”); and

WHEREAS, based on the Debtors’ business judgment, subject to the approval of the Bankruptcy Court, the Debtors have decided to assume the Calpine 2 Contract (the “Assumption”) and reinstate the Guaranty (the “Reinstatement”) pursuant to a motion to assume the Calpine 2 Contract (the “Motion to Assume”); and

WHEREAS, the Parties agree that the Assumption and the Reinstatement resolve all disputes between the Parties;

NOW, THEREFORE, it is hereby stipulated and agreed to by and among the Parties, by and through counsel, as follows:

1. The Debtors shall file the Motion to Assume with the Bankruptcy Court on or before August 29, 2007.
2. The Parties agree that no defaults exist under the Calpine 2 Contract and, accordingly, no cure is necessary for assumption of the Calpine 2 Contract pursuant to Section 365 of the Bankruptcy Code.
3. Upon entry of this Stipulated Order and an order by the Bankruptcy Court approving the Motion to Assume (the “Order”), the Objections shall be deemed withdrawn in the

applicable court, and the California State Parties shall file a notice of withdrawal of each of the Objections within five days following the entry of the last of the orders.

4. Upon entry of the Order, the Appeal shall be deemed withdrawn, and the Debtors and the Committee shall file a notice of withdrawal of the Appeal within five days following the entry of the Order.

5. All proceedings concerning the Objections are stayed in this Court during the pendency of the Motion to Assume. KMK

6. The Debtors shall promptly amend their Plan dated June 20, 2007 to reflect that the Calpine 2 Contract has been assumed.

7. Any conflict that arises between the terms of the Debtors' Plan (or any other plan filed by the Debtors) and this Stipulated Order shall be resolved in favor of this Stipulated Order.

8. This Order shall be binding on the Parties' successors and assigns.

9. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

10. Each person who executes this Order on behalf of a party hereto represents that he or she is duly authorized to execute this Order on behalf of such party.

11. This Court shall have exclusive jurisdiction to hear and resolve all disputes between the parties regarding interpretation and enforcement of this Stipulated Order.


12. This Order may be executed in counterparts, each of which when so executed and delivered shall be an original, but all of which together shall constitute one and the same document.

13. 06 CV. 624 was ~~and~~ closed and shall remain closed. 07 CV 6917 shall be closed
[Signatures to Follow on Next Page]

IF the parties wish to
re-open this case, they have
more to do so.

DATED: New York, New York
August 24, 2007

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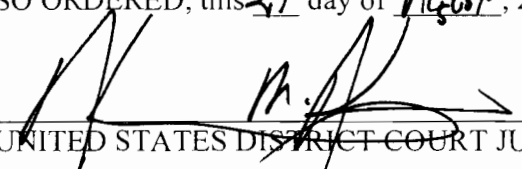
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Unsecured Creditors

SO ORDERED, this 27th day of August, 2007


UNITED STATES DISTRICT COURT JUDGE

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Resources and California Electricity Oversight
Board

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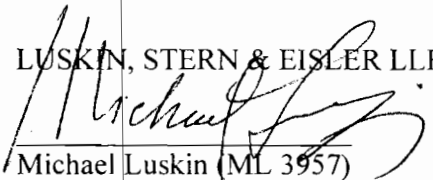
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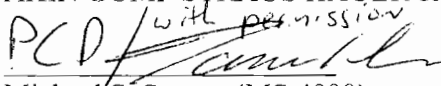
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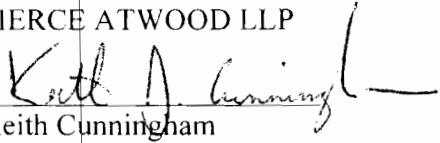
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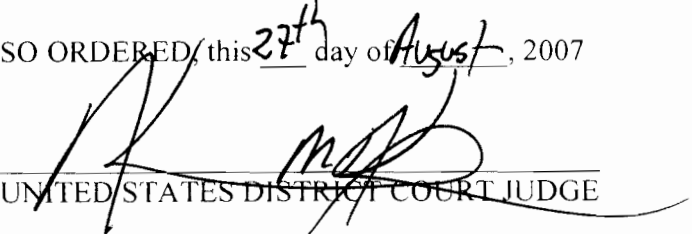
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